

STATUS OF CLAIMS

Claims 1 - 21 are pending.

Claims 1 - 21 stand rejected by the Examiner.

Claims 1, 6, 8 and 15 have been amended, without prejudice, herein.

Claims 2, 9 and 16 have been cancelled, without prejudice, herein.

Claims 22 - 38 have been added herein.

REMARKS

Reconsideration of the present Application is respectfully requested.

The Specification has been objected to for informalities with the disclosure. Claims 1-12 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out an distinctly claim the subject matter which applicant regards as the invention. Claims 1-21 have been provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-12 and 15-20 of copending Application No. 10/090,460. Claims 1, 2, 8-13, 15, 16 and 21 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al (U.S. Pat. No. 5,727,950). Claims 2, 4-6, 12, 14, 16, 18 and 19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al (U.S. Pat. No. 5,727,950) in view of LoSasso et al (U.S. Pub. No. 2003/0008266 A1). Applicant respectfully traverses these rejections, and deems the objections overcome for at least the following reasons.

Amendments To The Specification

The Specification has been objected to because of certain misspellings and typographical errors requiring appropriate correction. The Examiner asserts the phrase "each label has general

areal dimensions,” is unclear as to what is “areal.” In this regard, the word “areal” is nothing more than the word “area” used in the form of an adjective. Further, Applicant respectfully submits the Specification as amended adequately corrects the informalities of the disclosure.

Claim Rejections Pursuant to 35 U.S.C. 112, Second Paragraph

Claims 1-21 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out an distinctly claim the subject matter which applicant regards as the invention.

35 U.S.C. 112, second paragraph, states:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The present office action rejects Claims 1-21, asserting that the recitation is unclear and confusing. Examiner notes that without the detecting step (as per claim 1), or the “detector” (as per claim 8), or the “code for detecting” (as per claim 15), the method, or system, or computer program product for providing educational service cannot perform the function of automatically and temporarily interrupting of the at least one activity as claimed. Applicant respectfully submits that Claims 1, 8 and 15 as amended satisfy 35 U.S.C. § 112.

The present office action also rejects Claim 6, specifically referencing the portions of the claim which states “said retrieving”. Examiner represents that this phrase has insufficient antecedent basis. Applicant respectfully submits that Claim 6 as amended satisfies 35 U.S.C. § 112.

The present office action also rejects Claim 8, specifically referencing the portions of the claim which states “at least one microprocessor device, comprising:” Examiner represents that this

phrase should be recited as “--at least one microprocessor device--.” Applicant respectfully submits that Claim 8 as amended satisfies 35 U.S.C. § 112.

Further, Applicant respectfully submits that Claims 3-5, 7, 10-14 and 16-21 satisfy 35 U.S.C. § 112, as each of these Claims ultimately depends from a patentably distinct independent base Claim 1, 8 or 15.

Double Patenting Rejections

Claims 1-21 have been provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-12 and 15-20 of copending Application No. 10/090,460. Applicant respectfully traverses this rejection of Claims 1-21 for at least the following reasons.

The present Application is a continuation of copending Application No. 10/090,460, and therefore the two Applications claim different aspects of the present invention, respectively. Further, Claims 1, 2, 4-12, 14-16 and 18-20 have been withdrawn from copending Application No. 10/090,460. Further still, Claims 3 and 17 of copending Application No. 10/090,460 have been amended.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 101 provisional double patenting rejections of Claims 1-21, as the present Application is a continuation of the cited Application.

35 U.S.C. 102(b) Rejections

Claims 1, 2, 8-13, 15, 16 and 21 stand rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al (U.S. Pat. No. 5,727,950). Applicant respectfully traverses the rejection of Claims 1, 2, 8-13, 15, 16 and 21 for at least the following reasons.

35 U.S.C. 102(b) recites:

A person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

Consistently, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See, M.P.EP. §2131 citing Verdegall Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).*

Applicant respectfully submits Cook et al fails to teach each of the limitations of independent Claims 1, 8 and 15, as well as those of new independent Claims 22, 27 and 34. Applicant agrees with Examiner that Cook et al does not state that the interruption of the at least one activity is temporary. However, the periodic interruptions common to the process of teaching or guidance all fit within the general meaning of interactive instruction, which, as asserted by the Examiner, may be inferred in Cook et al, and, arguably, inherently exists in any interactive system. Therefore, the temporary nature of interruptions in an interactive system, as asserted by the Examiner, exist *within the educational or instructional process itself*, not the temporary interruption of a wholly different activity, as is the case with the present invention. The claimed limitation of temporarily interrupting the at least one activity relates to the temporary displacement of the activity with the educational services, followed by the reengagement of that previous and wholly different

activity. Thus, Applicant submits that, while Cook et al teaches an interactive instructional system, it fails to teach a method of temporarily interrupting other types of activities with educational services.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection of Claims 1, 8 and 15, as well as those of new independent Claims 22, 27 and 34, as Cook et al fails to teach the temporary interruption of at least one activity as recited in Claims 1, 8, 15, 22, 27 and 34. Further, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(b) rejections of Claims 3-7, 10-14, 17-21, 23-26, 28-33 and 35-38, as each of these Claims ultimately depends from a patentably distinct independent base Claim 1, 8, 15, 22, 27 or 34.

Rejections based on 35 U.S.C. § 103 (a)

Claims 2, 4-6, 12, 14, 16, 18 and 19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al (U.S. Pat. No. 5,727,950) in view of LoSasso et al (U.S. Pub. No. 2003/0008266 A1). Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. 103(a) sets forth in part:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits the cited references, either separately or in combination, fail to teach or suggest at least each of the limitations of independent Claims 1, 8 and 15, as well as those of new independent Claims 22, 27 and 34. For at least the reasons set forth hereinabove, Cook et al fails to teach each of the limitations of independent Claims 1, 8, 15, 22, 27 and 34. LoSasso et al teaches an interactive training system and method. Likewise, LoSasso fails to teach the temporary interruption of at least one activity as recited in Claims 1, 8, 15, 22, 27 and 34.

Accordingly, Applicant submits at least Claims 1, 8, 15, 22, 27 and 34 are patentably distinguishable over the prior art of record. Applicant further submits that Claims 3-7, 10-14, 17-21, 23-26, 28-33 and 35-38 are similarly distinguishable over the prior art of record, at least by virtue of their ultimate dependency from a patentably distinct base Claim 1, 8, 15, 22, 27 or 34.

CONCLUSION

Wherefore, Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,

Date: August 6, 2004

A handwritten signature in black ink, appearing to read 'THOMAS J. MCWILLIAMS', written over a horizontal line.

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